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9 **UNITED STATES BANKRUPTCY COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**  
11

12 In Re:  
13  
14 iNDx Lifecare, Inc.

Case No. 16-52307

CHAPTER 11

15 **AMENDED DECLARATION OF**  
16 **PIYUSH GUPTA IN SUPPORT OF**  
17 **AMENDED MOTION BY DEBTOR-IN-**  
18 **POSSESSION FOR DISMISSAL OF**  
19 **CHAPTER 11 CASE**

20 Date: December 16, 2016

21 Time: 10:00 a.m.

22 Place: United States Bankruptcy Court  
23 450 Golden Gate Ave, 16<sup>th</sup> Floor  
24 San Francisco, CA 94102

25 Judge: Hon. Dennis Montali

26 I, Piyush Gupta, hereby declare:

27 1. I have personal knowledge of the facts contained in this Declaration, except as to  
28 any matters alleged upon information and belief and as to those matters I believe them to be true.

If called as a witness, I could and would so testify thereto.

2. I am the Managing Consultant for iNDx Lifecare, Inc., the Debtor in this case. I  
have been appointed as the Responsible Individual in this case.

3. This amended declaration supplements and clarifies the declaration filed on November 17, 2016, which does not mention the nominal cash left in Debtor's bank account (\$590.26) and the equipment that secured creditors NMS Labs ("NMS") and PLC Diagnostics, Inc. ("PLC") have in their possession. In my best estimation, the equipment has a fair market resale value of approximately \$150,000 and is the only substantial tangible asset the Debtor owns. I understand that the right to the equipment may be disputed by NMS and/or PLC.

4. Attached as Exhibit A is a true and correct copy of the Amended Notice of Disposition of Collateral by Foreclosure Sale, which NMS and PLC conducted on November 4, 2016. I attended the sale. Secured creditor Eurosemillas attended the sale and announced on the record that they were objecting to the foreclosure sale.

5. iNDx Lifecare, Inc. does not have the ability to reorganize and I believe that conversion would create substantial additional infighting among current and former principles of the Debtor (and current creditors) as to claims and administration of the case, and that the costs of administering the estate are likely to outweigh any benefit to creditors.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. Executed this 23rd day of November, 2016, at Cupertino, California.

  
Piyush Gupta

# Exhibit “A”

**AMENDED NOTICE OF DISPOSITION OF COLLATERAL  
BY PUBLIC FORECLOSURE SALE**

**Name of Debtor: iNDx Lifecare, Inc.**

Name of Secured Party: PLC Diagnostics, Inc. and NMS Labs

**NOTICE IS HEREBY GIVEN** that PLC Diagnostics, Inc. and NMS Labs (together, the “Secured Party”) will sell (the “Sale”) certain intellectual property assets (as described more fully below, the “Collateral”) of **iNDx Lifecare, Inc.** (the “Debtor”) to the highest or otherwise best qualified bidder at a public auction to be conducted on **November 4, 2016 at 10:00 a.m. (PT)** at the offices of Pachulski Stang Ziehl & Jones LLP, 150 California Street, 15<sup>th</sup> Floor, San Francisco, CA 94111.

The Debtor commenced a voluntary bankruptcy filing under chapter 11 of the United States Bankruptcy Code on August 11, 2016. On October 19, 2016, the United States Bankruptcy Court for the Northern District of California (San Jose Division) entered an immediately binding order granting relief from stay in favor of the Secured Party as to the Collateral.

The Collateral being sold by the Secured Party consists of all of the Debtor’s right, title and interest, on a worldwide basis, in and to: (a) the technology described on **Exhibit A** (the “Technology”), attached hereto; (b) all Intellectual Property Rights related to the Technology, as defined on **Exhibit B**; and (c) all proceeds of each of the foregoing and all accessions to, and replacements for, each of the foregoing.

The Secured Party reserves the right to: (a) adjourn or cancel the Sale without notice; (b) alter the terms of payment; (c) abandon or elect not to dispose of certain Collateral; (d) submit a credit bid for the Collateral; and/or (d) reject all bids for the Collateral. If the Secured Party accepts a bid, the prevailing bidder will receive a secured party bill of sale with no representations or warranties of any kind or nature whatsoever. Additional terms of Sale may be announced at the time of the Sale. The Debtor is entitled to an accounting of the unpaid indebtedness secured by the Collateral that the Secured Party intends to sell, which the Debtor may request by contacting the Secured Party’s counsel, as set forth below.

**EXCEPT AS THE SECURED PARTY OTHERWISE AGREES, THE COLLATERAL IS BEING OFFERED AS A SINGLE LOT ON AN “AS IS/WHERE IS” BASIS WITH ALL FAULTS, WITHOUT RECOURSE TO THE SECURED PARTY OR ANY OF ITS AGENTS OR REPRESENTATIVES, AND WITH NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, RELATING TO TITLE, POSSESSION, QUIET ENJOYMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR THE LIKE.**

For information regarding the Sale, please contact Maxim B. Litvak, Pachulski Stang Ziehl & Jones LLP, 150 California Street, 15<sup>th</sup> Floor, San Francisco, CA 94111, (415) 263-7000, email: mlitvak@pszjlw.com.

## **EXHIBIT A**

### **Technology**

The Technology consists of all of the Debtor's intellectual property as acquired under that certain Intellectual Property Transfer Agreement, dated December 27, 2013, from PLC Diagnostics, Inc. and any new granted patent or pending patent applications filed by the Debtor to date related thereto, including, without limitation, all such patents and patent applications listed below:

#### **US Patents:**

1. US7,951,583 - Optical Scanning System
2. US8,187,866 - Optical Scanning System
3. US8,288,157 - Waveguide-Based Optical Scanning System
4. US8,675,199 - Waveguide-based detection system with scanning light source
5. US8,747,751 - System and method for nucleic acids sequencing by phased synthesis

#### **US Pending Patent Applications:**

1. US20130071850A1 - Waveguide-Based Optical Scanning System
2. US20140178861A1 - Waveguide-based detection system with scanning light source
3. US20160033412A1 - Partially Encapsulated Waveguide Based Sensing Chips, Systems and Methods of Use
4. Provisional Application - Per-Well Signal Normalization Method for Waveguide Based Sensing Chip

#### **GB Patent:**

1. GB2461026 - System and Method for Nucleic Acids Sequencing by Phased Synthesis

#### **Ex-US Patents:**

1. ZL 201080028057.2 (China) - Waveguide-Based Detection System with Scanning Light Source
2. 2010241641 (Australia) - Waveguide-Based Detection System with Scanning Light Source
3. 5757535 (Japan) - Waveguide-Based Detection System with Scanning Light Source

#### **Ex-US Patent Applications:**

##### Waveguide-Based Detection System with Scanning Light Source

1. CA2,759,396 - Canada
2. EP10716716.5 - Europe
3. HK10716716.5 - Hong Kong
4. IL215898 - Israel
5. IN8694/CHENP/2011 - India
6. KR10-2011-7028448 - South Korea
7. PCT/US2016/019856

##### System and Method for Nucleic Acids Sequencing by Phased Synthesis

1. IN8758/DELNP/2010 - India

##### Partially Encapsulated Waveguide Based Sensing Chips, Systems and Methods of Use

1. WO 2016/019026

## **EXHIBIT B**

### **Intellectual Property Rights**

“Intellectual Property Rights” means all past, present, and future rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights, and mask work rights; (b) trademark and trade name rights and similar rights (and associated goodwill); (c) trade secret rights; (d) patent and industrial property rights; (e) other proprietary rights in technology and works of authorship of every kind and nature; and (f) rights in or relating to registrations, renewals, extensions, combinations, continuations, divisions and reissues of, and applications for, any of the rights referred to in clauses (a) through (e) of this sentence.